

Memo

To: Labor and Public Employees Committee
From: Robert J. Brothers, Jr., Executive Director
Date: February 18, 2010
Re: **HB 5061: AN ACT ELIMINATING CREDIT REPORTS AS A BASIS FOR
EMPLOYMENT DECISIONS**

The Commission on Human Rights and Opportunities congratulates the Labor and Public Employees Committee for the intent of HB 5061 but we must **OPPOSE** the bill as drafted.

The primary problem with the bill is that the terminology and construction are ambiguous. As examples we would cite in Section 1:

- subsection (1) of section (a), states, "**is substantially related to the employee's current or potential job.**" The bill provides no parameters as to how closely related the violation would have to be to the work done or to be done.
- subsection (2) of section (a), states, "**such report is required by law.**" If it is already required by law this is unnecessary.
- subsection (3) of section (a), defines "**employer**" as a person who has one or more employees. This would be in conflict with state discrimination law which requires three or more employees for designation as an employer.
- subsection (3) of section (a), states, "**the employer reasonably believes.**" What would be considered reasonable, and what form of confirmation would be required? Would hearsay be acceptable or would official confirmation of an arrest be required?
- subsection (3) of section (a), states, "**activity that constitutes a violation of law.**" Again no parameters are established. Does the bill intend violations of law related to the position of employment or could a traffic violation or misdemeanor having nothing to do with the person's employment trigger a credit check?

The definition of "**is substantially related to the employee's current or potential job,**" in subsection (3) of section (a), deserves its own analysis. It is defined as: "the credit report is related to the position for which the employee or prospective employee who is the subject of the report is being evaluated because the position (A) **is a managerial position** which involves setting the direction or control of the business, (B) **involves access to customers', employees' or employer's personal or financial information other than information customarily provided in a retail transaction,** (C) **involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, transfer money or enter into contracts,** or (D) **provides an expense account.**"

(over)

Under (A) this term is so broad it could be construed as including night managers at fast food restaurants or anyone else who directs employees.

Subdivision (B) would appear to require bookkeepers and payroll clerks to undergo credit checks since they would have access to information not part of a "retail transaction."

Subdivision (C) states, "**including, but not limited to,**" a term so broad it could be applied to those operating cash registers within the context of "fiduciary responsibility."

Finally, we fail to understand how a credit check would relate to whether an expense account submission is valid or not.

The concept is worthy and well intended, but the bill as drafted is dangerous to the rights of many Connecticut employees and could be artificially used to screen out protected classes from getting much needed jobs.